

City of Northampton
MASSACHUSETTS

In the Year Two Thousand and Ten
UPON THE RECOMMENDATION OF Councilor David J. Narkewicz and
..... Councilor Angela D. Plassmann

ORDINANCE

An Ordinance of the City of Northampton, Massachusetts, providing that the Code of Ordinances, City of Northampton, Massachusetts, be amended by revising section 241, of said Code; Amend Chapter 241, Peace and Good Order; Add Article III, providing that Delivery of Unsolicited Publications

Be it ordained by the City Council of the City of Northampton, in City Council assembled, as follows:
Section 1. That section 241 of the Code of Ordinances of the City of Northampton, Massachusetts, be amended so that such section shall read as follows:
"Section 241.....

ADD

Article III Delivery of Unsolicited Publications

§ 241-8 Definitions

For the purposes of this article certain words are defined as follows:

DELIVER

To deliver, distribute, deposit, throw, cast or place, or cause or permit to be delivered, distributed, deposited, thrown, cast or placed, a publication, directly or indirectly by contractor, agent, employee or otherwise, but shall not include delivery by the United States Postal Service, delivery by handing or transmitting directly to the owner or occupant then present on the property, or delivery by placing within a receptacle or container expressly maintained by the owner or occupant of property for the receipt of newspaper publication deliveries.

DISTRIBUTOR

Any person or entity that engages in the business of circulating or delivering newspapers printed publications.

PUBLICATION

Any printed material issued monthly or more frequently, whether printed in broadsheet, tabloid or other sheet or booklet form, and shall include without limitation a newspaper of general circulation as defined by general law, any newspaper duly entered with the United States Postal Service in accordance with statute or regulation, any collection of advertising or solicitations appended together in booklet or magazine form and any newspaper distributed without cost to or subscription by the recipient.

PUBLISHER

A person who engages in the business of printing and issuing for circulation, or causing to be printed and issued for circulation, a publication.

UNSOLICITED PUBLICATION

~~A publication to which no owner or occupant of the premises to which it is delivered currently subscribes or has not requested.~~ **A delivered publication to which the owner or occupant of the premises does not currently subscribe or which such owner or occupant has not requested.**

§ 241-9 Obligations of publishers and distributors.

- A. Any publisher delivering or causing delivery of an unsolicited publication to a location within the City of Northampton shall:
- (1) Provide reasonable methods, including but not limited to, telephonic means, e-mail means and regular mail means, to allow owners and/or occupants of premises located within the City of Northampton to communicate to the publisher that they do not wish to receive the unsolicited publication issued by the publisher; notice of all such methods shall be regularly included in, on or with the unsolicited publications issued by the publisher;
 - (2) Implement a process or system whereby the addresses of all persons making requests for no delivery pursuant to Section A(1) hereto are timely communicated to any and all applicable distributors responsible for distributing the unsolicited publication issued by the publisher;
 - (3) Timely communicate the address of all persons making requests for no delivery made pursuant to Section A(1) hereto to all applicable distributors pursuant to the process or system implemented pursuant to Section A(2) hereto;
 - (4) Implement and communicate to the requesting person a means of tracking requests for no delivery made pursuant to Section A(1) hereto, including, by way of example, the assignment of a tracking number or some other reference system, so as to allow all persons making such requests to reference same in the event there is the need for follow-up or further communication;

- (5) Implement and utilize a process or system to timely follow up with all applicable distributors to ensure compliance with requests made pursuant to Section A(1) hereto;
- (6) Upon written request from the City Engineer or designee, provide the City of Northampton with contact information for any applicable distributor to allow the city to follow up with that distributor on any complaint received by the city from a resident regarding delivery of an unsolicited publication after making a request pursuant to Section A(1) hereto; and
- (7) The requirements set forth in Sections A(1) through A(6) hereto shall not apply to requests made by residents for temporary cessation of deliveries.

B. Any distributor delivering unsolicited publications in the City of Northampton shall:

- (1) Not distribute to any address where the owner or occupant has made a request for no delivery pursuant to Section A(1) hereof and such request has been communicated to the distributor by the publisher pursuant to Sections A(2) and A(3) hereto;
- (2) In making deliveries, use their best efforts to place publications in proximity to the entrances of the units to which the distributor intends delivery; unsolicited publications (other than those in properly located and maintained newspaper boxes or racks) should not be placed on streets, sidewalks, public rights-of-way, or other public property and shall not be distributed by placing them at intervals along a block, or by placing several near the entrance to a multi-unit building, other than in direct relation to the number of publications requested by the occupants of the block or building;
- (3) Implement and utilize a system or procedure for tracking and executing a publisher's direction regarding requests for no delivery made pursuant to Section A(1) hereto;
- (4) Upon written request from the City Engineer or designee, use their best efforts to provide the City of Northampton with facts and details related to complaints received by the city from a resident regarding delivery of an unsolicited publication after making a request pursuant to Section A(1) hereto;
- (5) Take any corrective measures requested by the City of Northampton after its completion of any investigation into complaints received by the city from a resident regarding delivery of an unsolicited publication after making a request pursuant to Section A(1) hereof; and
- (6) The requirements set forth in Sections B(1) through B(5) hereto shall not apply to requests made by residents for temporary suspension of deliveries.

§ 241-10 Removal

- A. If the publication can be located, the distributor thereof shall remove any publication delivered in violation of Section 241-9 B(2) within 24 hours following notice and demand by the owner or occupant of the premises.
- B. If the publication can be located, the distributor thereof shall remove any publication delivered in violation of Section 241-9 B(2) within 24 hours following notice and demand by the City Engineer or designee.
- C. Violation of this Section 241-10 shall constitute a separate and independent violation from the antecedent violation of section 241-9.

§ 241-11 Enforcement

- A. Any resident of the City of Northampton wishing to make a complaint regarding delivery of an unsolicited newspaper-publication in violation of this chapter to the property at which they reside or which they own shall provide the following information to the City Engineer or designee:
 - (1) The name of the requesting person;
 - (2) The address that was the subject of the request;
 - (3) The date and method used to make the request;
 - (4) The tracking number or other reference information provided by the publisher in response to the request; and
 - (5) The name and publication date of the unsolicited publication that is the subject of the complaint.
- B. Any person wishing to make a complaint unrelated to a no delivery request and regarding improper placement of unsolicited publications by a distributor of unsolicited publications in violation of Section 241-9 B(2) of this chapter shall provide the following information to the City Engineer or designee:
 - (1) The name of the complaining person;
 - (2) The location of the alleged improper placement and time the condition was observed; and
 - (3) The name and publication date of the unsolicited newspaper that is the subject of the complaint.
- C. Any person wishing to make a complaint for failure to remove an improperly delivered unsolicited publication in violation of Section 241-10 shall provide the same information as is required in Section 241-11 A, plus the date, time and manner of communication of the request to remove.

D. The city shall have no obligation to take any action on a complaint that does not contain the required information set forth above.

§ 241-12 Penalties

- A. Violations of section 241-9 shall be subject to a \$25 fine for the first violation and \$100 fine for **all each** subsequent **violations** involving delivery of the same publication to the same address within a 12-month period.
- B. Violations of Section 241-10 shall be subject to a \$25 fine for the first violations and a \$100 fine for **all each** subsequent **violations** involving failure to remove the same publication from the same address within a 12-month period.



City of Northampton, Massachusetts
ORDINANCE ACTION
REPORT FORM

This form must be submitted to Ordinance
Committee staff person (587-1210)
within 3 days of action

ORDINANCE SECTION: 241

If Traffic Chapter 312, Identify subsection (a - g) and type of regulation (No Parking, Limited Parking, Handicapped Zone, etc.) and Street Name or other identification of location:

AMEND CHAPTER 241, PEACE AND GOOD ORDER,
ADD ARTICLE III, DELIVERY OF UNSOLICITED
PUBLICATIONS.

COMMITTEE REPORTING: Ordinance Committee

Date Ordinance Referred to Committee: APRIL 15, 2010

Date First Discussed in Committee: MAY 10, 2010

Date Action Finalized by Committee
and sent to Ordinance Committee: _____

ACTION TAKEN:

_____ We recommend approval as submitted.

_____ We recommend approval with minor changes (grammatical or stylistic) as attached.

X We recommend approval with substantive changes (as explained below or attached). 2 YES, 1 ABSTENTION (COUNCILOR CARNEY)

Date changes submitted to
the City Solicitor for approval: _____

Explanation: _____

_____ We refer this out of Committee as submitted with no recommendation.

_____ We have tabled this in Committee to this date: _____

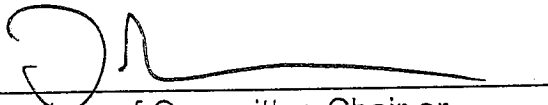
Reason: _____

_____ We recommend disapproval.

Reason: _____

Comments: _____

Date: 5/10/2010



Signature of Committee Chair or
Committee Staff Person

Mary Midura

From: James Laurila [jlaurila@nohodpw.org]
Sent: Thursday, April 29, 2010 11:13 AM
To: Mary Midura
Subject: Re: City Council Referral to Board of Public Works - Proposed Ordinance to Amend Chapter 241

Mary - thanks - to be absolutely correct the BPW meeting was on April 28th not the 29th. Sorry about the mistake in my original message.

Jim

--

James R. Laurila, P.E.
City Engineer
Department of Public Works
125 Locust Street
Northampton, MA 01060

T: 413-587-1570 x4307
F: 413-587-1576
E: JLaurila@NohoDPW.org
W: www.Northamptonma.gov/dpw

Mary Midura wrote:

> James - This email will go to the Ordinance Committee, and it will be included when this Ordinance comes back to City Council.

>

> Mary L. Midura
> Executive Secretary
> City Council and License Commission
> 413-587-1210

>

>

> -----Original Message-----

> From: James Laurila [mailto:jlaurila@nohodpw.org]
> Sent: Thursday, April 29, 2010 10:48 AM
> To: Mary Midura
> Cc: Ned Huntley
> Subject: City Council Referral to Board of Public Works - Proposed Ordinance to Amend Chapter 241

>

>

> On April 15, 2010 the City Council referred to the Board of Public Works a proposed Ordinance to Amend Chapter 241 of the City Code of Ordinances.

>

> At the Board of Public Works (BPW) meeting on April 29, 2010, the BPW voted to approve the proposed ordinance change provided that the City Council consider the following two comments.

>

> 1) The BPW found the definition of "Unsolicited Publications" contained in Section 241-8 to be awkward and requested that the Council consider re-writing the definition to improve clarity.

>

> 2) Section 241-11 A. states "Any resident of the City of Northampton wishing to make a complaint regarding delivery of an unsolicited newspaper in violation of this chapter....."

>

> The BPW questions whether the word "newspaper" should be replaced by the word "publication" which would then make this enforcement statement consistent with the remainder of the proposed ordinance change to

> regulate unsolicited publications.

>
> The BPW appreciates the opportunity to provide input to the City Council
> on this matter.

>
> Please contact me with any questions.

>
> --

> James R. Laurila, P.E.

> City Engineer

> Department of Public Works

> 125 Locust Street

> Northampton, MA 01060

>
> T: 413-587-1570 x4307

> F: 413-587-1576

> E: JLaurila@NohoDPW.org

> W: www.Northamptonma.gov/dpw

Mary Midura

From: Corinne Philippides
Sent: Wednesday, April 28, 2010 11:27 AM
To: Mary Midura
Subject: RE: EDHLU



Minutes.02-23-
10.doc

Approved minutes are attached.

<<Minutes.02-23-10.doc>>

Also:

VOTE ON MOTION:

The Economic Development, Housing and Land Use Committee does hereby recommend that Ordinance Chapter 241, Peace and Good Order, be amended by the addition of Article III, Delivery of Unsolicited Publications.

Moved by Councilor Tacy.
Councilor Spector seconded the motion.

The vote was unanimous in favor (Mayor Higgins, Councilors Plassman, Schwartz, Spector, and Tacy).

From: Mary Midura
Sent: Wednesday, April 28, 2010 11:12 AM
To: Corinne Philippides; Teri Anderson
Subject: EDHLU

Corinne, Teri - Was there an EDHLU meeting last night? Were there minutes from Feb 23, and were they approved? If so, could you send the minutes to me for May 5, 2010 City Council meeting?

Thank you!

Mary L. Midura
Executive Secretary
City Council and License Commission
413-587-1210